



Crl.O.P.(MD) No.906 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.906 of 2024

and

Crl.M.P.(MD) Nos.577 & 578 of 2024

Syed Ali

... Petitioner

Vs.

The Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.
(Crime No.789 of 2012)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records of the impugned Final Report in C.C.No.1170 of 2018 in Crime No.789 of 2012 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram and quash the same.

For Petitioner : M/s.S.Mahalakshmi

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



Crl.O.P.(MD) No.906 of 2024

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the final report filed by the respondent against the petitioner for the offences punishable under Section 353 of the Indian Penal Code, 1860 read with Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959 [wrongly stated as *Rule 36(A) of the Tamil Nadu Constriction Rules, 1957* in the final report] and Section 21(A) of the Mines and Minerals (Development and Regulation) Act, 1957.

2. The allegation in the final report against the petitioner is that on 06.10.2012, at about 08:30 p.m., near Kallupalam Junction, A1, who was working as a driver, had committed theft of 4 units of river sand in a lorry bearing Registration No.KL-19-C-1339, belonging to the petitioner/A2, with the permission of the petitioner/A2.

4. The learned counsel for the petitioner would submit that admittedly, the petitioner was not present when the lorry along with the river sand was seized from A1 and hence, the offence punishable under Section 353 of the IPC could not be made out; that though the final report



Crl.O.P.(MD) No.906 of 2024

WEB COPY

refers to offences punishable under Section 353 of the Indian Penal Code, 1860 read with Rule 36(A) of the Tamil Nadu Constriction Rules, 1957 and Section 21-A of the Mines and Minerals (Development and Regulation) Act, 1957, there is indeed no such Rules as the 'Constriction Rules'; and that no evidence has been collected by the prosecution to suggest the involvement of the petitioner except for the confession of the co-accused, A1, who is presently absconding.

5. The learned Additional Public Prosecutor for the respondent would submit that in the final report, instead of referring to Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, the respondent has wrongly referred to Rule 36(A) of the Tamil Nadu Constriction Rules, 1957; that the allegations against the petitioner constitute offences punishable under Section 353 of the Indian Penal Code, 1860 read with Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959 and Section 21-A of the Mines and Minerals (Development and Regulation) Act, 1957; and that the points raised by the petitioner cannot be adjudicated in this quash petition. He would therefore pray for dismissal of this quash petition.



Crl.O.P.(MD) No.906 of 2024

WEB COPY

6. Even according to the prosecution, the petitioner was not present when the seizure was made from A1. The petitioner cannot be prosecuted merely because he is the owner of the lorry which was used by A1 to commit the theft of 4 units of river sand. The offences alleged are under Section 353 of the Indian Penal Code, 1860, read with Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, and Section 21-A of the Mines and Minerals (Development and Regulation) Act, 1957. The prosecution has not charged the petitioner with abetment or conspiracy. Even otherwise, the final report and the statements recorded by the police do not suggest that the petitioner was involved in any of the offences alleged or in the offence of abetment or conspiracy. The only evidence relied upon by the prosecution is the confession of the co-accused, namely A1. It is well settled that when the only evidence available is the confession of a co-accused, no conviction can be sustained. If the conviction cannot be sustained, it would be a futile exercise to direct the petitioner to undergo the ordeal of trial. Hence, this Court is of the view that the impugned final report against the petitioner is liable to be quashed and is accordingly quashed.



Crl.O.P.(MD) No.906 of 2024

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Consequently, the connected Miscellaneous Petitions are closed.

08.09.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Judicial Magistrate No.II,
Padmanabhapuram,
Kanyakumari District.
- 2.The Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.906 of 2024

SUNDER MOHAN, J.

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Crl.O.P.(MD) No.906 of 2024

08.09.2025